

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CIVIL

PARVEZ and RAZIA YAZDANI,

Plaintiffs : No. 2:15-CV-04127-PD

vs.

BMW of NORTH AMERICA, LLC,
and BMW MOTORRAD USA,
division of BMW OF NORTH
AMERICA, LLC,

Defendant :

Deposition of: PARVEZ YAZDANI

Taken by : Keith D. Heinold, Esquire

Before : JOYCE A. WISE, RMR

Date : September 22nd, 2015

Place : Marshall Dennehey
100 Corporate Center, Ste. 201
Camp Hill, PA 17011

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2 APPEARANCES:

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INDEX TO WITNESSES

EXAMINATION

PARVEZ YAZDANI

By Mr. HeinoId: 4

By Mr. Hughes: 90

INDEX TO EXHIBITS

MARKED

Yazdani Exh. No. 1 - BMW Rider's manual

Yazdani Exh. No. 2 - home layout

1 P R O C E E D I N G S
2 11:07 A.M.

3 It is hereby stipulated by and between counsel for
4 the respective parties that reading, signing, sealing,
5 certification and filing are hereby waived; and that all
6 objections, except as to the form of the question, are
7 reserved to the time of trial.

8 PARVEZ YAZDANI,
9 called as a witness, having been duly sworn or affirmed,
10 was examined and testified as follows:

11 EXAMINATION

12 BY MR. HEINOLD:

13 Q. Is Yazdani the correct pronunciation?

14 A. Absolutely.

15 Q. Sir, have you been in a deposition before?

16 A. Nope.

17 Q. You understand what we're doing here?

18 A. Yes.

19 Q. Okay. Do you understand you're under oath?

20 A. Yes, I do.

21 Q. And even though we don't have a judge and a jury
22 and all of the trappings of a courtroom, the oath is the
23 same as if we did. Do you understand?

24 A. I am aware of it now, yeah.

25 Q. And you're aware of the penalties for testifying
falsely?

A. Yes.

Parvez Yazdani

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1 Q. Okay. In a deposition, it's a
2 question-and-answer session. I ask the questions. You
3 give the answers.

4 I endeavor to ask intelligent questions, but I
5 don't always. I may ask something that you don't
6 understand.

7 If you don't understand it, tell me you don't,
8 I'll try to rephrase it. If I ask you something you don't
9 know the answer to, you can tell me you don't know the
10 answer to it.

11 If there's something that you don't remember,
12 you can say that you don't remember.

13 It works best if you let me finish my question
14 so that we're certain you understood it, and then give a
15 verbal answer so that the court reporter can take down the
16 words that you have spoken.

17 If you wish to gesture, nod your head and do all
18 those things, you're welcome to do it. But you have to
19 use words to go with it.

20 For example, if you want to nod your head yes,
21 you have to say yes as you're doing it.

22 So you're welcome -- if you're comfortable
23 waving your hands when you talk, you're welcome to do
24 that, because the words will be what's important.

25 Do you have any questions about the process?

Parvez Yazdani

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1 A. Nope.

2 Q. It's my understanding you bought this motorcycle
3 used on Craigslist?

4 A. Correct.

5 Q. Is that the first motorcycle you owned?

6 A. No, I had quite -- you know, like about two
7 motorcycles back home in India.

8 well, actually one was a scooter, Vesper. And
9 the other was a Java. And then when I moved to United
10 States, I believe I bought one in 1981. To best of my
11 knowledge, a Yamaha. I think it was a 750 or something
12 like that.

13 Q. All right -- I'm gonna get to that detail.

14 A. Sure.

15 Q. -- in a little bit.

16 when you bought this motorcycle, the person you
17 bought it from was in Boston?

18 A. Correct.

19 Q. Did you go get the motorcycle?

20 A. Yes.

21 Q. All right. When you got the motorcycle, did it
22 have the rider's manual with it?

23 A. In the package, it had a lot of papers, which I
24 guess -- and in that was the owner's manual as well.

25 Q. Okay. I have a copy here of the -- and I've

Parvez Yazdani

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1 provided a copy to your counsel in full and I brought the
2 original.

3 A. I'm aware of that book, yes.

4 Q. And was that a book that you received when you
5 received the motorcycle?

6 A. Yes.

7 Q. Did you read it?

8 A. Yes.

9 Q. Okay. Did you read it before you operated the
10 motorcycle?

11 A. Yes.

12 Q. Okay. And what was the purpose --

13 A. No, I'm sorry. Didn't -- let me just rephrase
14 it. I did not, because when I got the whole package, I
15 just put it away and started off from Boston to
16 Harrisburg.

17 So in response to your answer --

18 Q. Right.

19 A. -- I did not read the manual til I got back home
20 in Harrisburg.

21 Q. Okay. When you got back home, you then read the
22 manual?

23 A. Correct.

24 Q. Did you read the manual before the fire that
25 brings us here together?

Parvez Yazdani

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1 A. Yes, sir, I did.

2 Q. What was the purpose for reading the manual?

3 A. Well, the purpose was even though most of the
4 things were self-explanatory, to make sure --

5 Q. I'm sorry.

6 A. -- to make sure about what type of oil should be
7 used, the level of oil, engine oil, brake oil, how to
8 adjust the levers. I mean, I could see the adjustments in
9 there, how to -- one thing that I was wanted to do was to
10 bring the motorcycle down a little bit, so I softened
11 the -- I believe it is the suspensions, I guess, make it
12 softer so when you sit, you can come down a lit bit.

13 Q. You lowered the suspension?

14 A. No. I didn't do it. There's a gauge where you
15 can just turn it so that the suspension becomes loose.
16 That's my understanding.

17 Q. You did that?

18 A. I did that.

19 Q. For purposes of the ride home?

20 A. Not at that time.

21 Q. Okay.

22 A. That was after I got to Harrisburg.

23 Q. All right.

24 A. And basically that was about it.

25 Q. When you bought the motorcycle, did you

Parvez Yazdani

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1 understand it was an air-cooled engine?

2 A. Yes.

3 Q. Okay. What did that mean to you?

4 A. Meaning that it has to be running and going so
5 that it would, you know -- the engine would cool down.

6 Q. So you understood when you bought it that the
7 motorcycle needed to be moving so air could keep the
8 engine cool?

9 A. I mean that that --

10 MR. HUGHES: He is asking about at the time you
11 bought it.

12 THE WITNESS: At the time? No, I did not. I
13 did not.

14 BY MR. HEINOLD:

15 Q. Okay. When you bought it, did you know it was
16 an air-cooled engine?

17 A. No. I mean, to be honest, I did not -- I mean,
18 my concentration was the fact that, you know, I wanted a
19 shaft-driven motorcycle and that was what it was.

20 Q. A what?

21 A. It was a shaft-driven.

22 Q. Shaft-driven?

23 A. Yeah. I believe that was what this motorcycle
24 was.

25 Q. Okay. You read the manual. Can you tell me

Parvez Yazdani

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1 approximately the date that you purchased this motorcycle?

2 A. Somewhere in the -- in April of 2011, somewhere
3 around there.

4 Q. And this fire was February of 2013?

5 A. Yeah.

6 Q. Okay. Between April 2011 and February 2013, you
7 read the manual?

8 A. Well, it was right after I got home in
9 Harrisburg that I read the manual.

10 Q. Okay. Did you read it completely?

11 A. Yes.

12 Q. What was the purpose for reading the manual?

13 A. Well, reading of the manual was basically, as I
14 said, to make sure that the proper maintenance should be
15 done at what time, to make sure how should I check the oil
16 level and stuff -- I mean, those were the important things
17 to me.

18 Q. Were you interested in how it operates?

19 MR. HUGHES: Object to form.

20 THE WITNESS: Meaning?

21 MR. HUGHES: You can answer if you understand
22 the question.

23 THE WITNESS: Could you, you know --

24 BY MR. HEINOLD:

25 Q. Were you interested when you read in the

Parvez Yazdani

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1 characteristics of the motorcycle in how it operated?

2 A. Meaning to say how you rest the clutch and how
3 do you change gear?

4 Q. Any aspect of it.

5 A. I don't understand the question.

6 Q. Okay. Let me mark this as Exhibit Yazdani 1.
7 And what I'm marking is the first page of the manual that
8 we produced and it has a Bates number of 1.

9 The second page, which is for the warning
10 caution note nomenclature, which is Bates Number 2 --
11 Bates Number Page 55 and Bates Number Page 64.

12 And if there's any questions about being able to
13 read them, which I don't think there will be, I have the
14 original.

15 So if you could marked that, please.

16 (Deposition Yazdani Exhibit No. 1 marked.)

17 BY MR. HEINOLD:

18 Q. I've handed you exhibit -- what we have marked
19 Yazdani 1.

20 A. Okay.

21 Q. Okay. You had a chance to look at those pages?

22 A. Yes, I have.

23 Q. I'd like you to look at the last page which is
24 marked -- we call them Bates numbers at the bottom.

25 A. Okay.

Parvez Yazdani

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1 Q. It's Bates Number 64.

2 A. 64.

3 Q. Okay. That page is titled starting, correct?

4 A. Right.

5 Q. Okay. And on the lower right-hand side, there's
6 a word warning?

7 A. Yes.

8 Q. And it's in all caps and bold?

9 A. Yes.

10 Q. And it's larger than the rest of the writing,
11 correct?

12 A. Right.

13 MR. HUGHES: I'm just gonna object here just
14 because the copy he is looking at only, as Yazdani 1, is a
15 black-and-white copy. So I don't know if you can
16 determine that that's in bold, but --

17 THE WITNESS: The warning is in bold.

18 BY MR. HEINOLD:

19 Q. Does the word warning look like it's in bold to
20 you?

21 A. Yes, it does.

22 Q. As compared to the other print that's on the
23 page?

24 A. Right.

25 Q. And it's in a box?

Parvez Yazdani

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1 A. Yes.

2 Q. And it's got a warning placard?

3 A. Yes.

4 Q. And when you see something like that, does it
5 tell you, draw your attention to this?

6 A. Yes.

7 MR. HUGHES: Object to form.

8 BY MR. HEINOLD:

9 Q. Did you read this warning prior to the fire?

10 A. I'm sure I must have.

11 Q. Okay. The first paragraph of the warning says,
12 do not warm up the engine with the motorcycle at a
13 standstill, risk of overheating or fire. And it actually
14 has an exclamation point after fire, correct?

15 A. Yes.

16 Q. And it, too, appears to be in bold print,
17 correct?

18 A. The what? I'm sorry?

19 Q. It also appears to be in bold print, although
20 not all capitals?

21 A. I cannot see the bold print.

22 Q. Okay. Let me show it to you in the manual
23 itself.

24 I'm gonna show you the actual page from the
25 manual. Show it to your counsel.

1 This is what we're reading from.

2 A. Yes.

3 Q. Do you agree that's bold print?

4 A. Yes, it is.

5 Q. Notwithstanding the interpretation from the copy
6 I presented, at least in the original that's bold print,
7 you agree with that?

8 A. Okay. Yes.

9 Q. It says, do not warm up the engine with the
10 motorcycle at standstill, risk of overheating or fire.
11 Exclamation point.

12 I read that correctly, correct?

13 A. Correct.

14 Q. When this accident happened, did you warm up
15 your motorcycle at a standstill?

16 A. Yes, I did.

17 Q. Did you know of this warning?

18 A. At that particular time, this warning was not in
19 my -- you know, I did not remember that doing -- you know,
20 starting the motorcycle at a standstill, that part of it
21 was not in my mind.

22 Q. You had read it previously?

23 A. I had read it previously.

24 Q. Okay. And why did you warm it up at a
25 standstill?

1 A. Well, throughout the winter -- I mean, I had not
2 winterized the motorcycle. There was still gasoline in
3 the tank and to just kind of warm it up periodically, I
4 would start it once or twice a week to kind of just let
5 the -- you know, engine run and warm up. And that's about
6 it.

7 Q. And when you started it once or twice a week,
8 how long -- how many times would you say you've done that?

9 A. That is something that I do not remember as to
10 how many times I did it.

11 Q. Well, can you give me an estimate?

12 A. Since I bought the bike, is that --

13 Q. Yes. How many times did you warm up the engine
14 at a standstill?

15 A. I cannot give you that. I mean, it might have
16 been 40 times. It might be 30 times. It might be -- so I
17 mean, it's a very -- something that I do not remember at
18 all.

19 Q. Something you did frequently?

20 A. As I said, you know, like once or twice a week
21 during the wintertime. So, I mean, like if we calculate
22 how many years I had the bike and it would not come out to
23 very much.

24 Q. All right. And when you did that, how long
25 would you let it run?

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1 A. From the time that I was start the motorcycle,
2 go light a cigarette and by the time that I would finish
3 off the cigarette, it would be, I would say, eight, nine,
4 seven, whatever minutes.

5 Q. That was your custom?

6 A. That was -- when you say custom, yes, once or
7 twice a week.

8 Q. But when you did it, you would warm it up?

9 A. Yes.

10 Q. Have a cigarette?

11 A. Correct.

12 Q. Where would you have the cigarette?

13 A. Well, I mean, it's a two-car garage. The
14 motorcycle was parked in between the two cars. And I
15 would start the motorcycle, go around one car and there
16 was -- you know, I would light a cigarette. There was a
17 big ashtray that I would just put out the cigarette and
18 come back and turn the bike off.

19 Q. Did you have the doors open of the garage?

20 A. Yes.

21 Q. One or two?

22 A. One.

23 Q. Is it a one-door, two-car garage?

24 A. No, it's a two doors.

25 Q. You opened one door or both?

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1 A. One door, sir. Because it was wintertime and
2 I --

3 Q. Did you typically open the same door?

4 A. Yes.

5 Q. And if I was facing your garage as if I was
6 going to drive in it, would that be on the right or the
7 left?

8 A. It would be the left one.

9 Q. Is that closer to your house or further from
10 your house?

11 A. It is further from my house.

12 Q. Do you have a side-entrance garage or
13 front-entrance?

14 A. It's a side-entrance.

15 Q. Okay. So when you're in your garage and you
16 want to enter your house, how do you do that?

17 A. There's a walkway in front of my house that --
18 well, I mean, there's a driveway.

19 The driveway leads to the garage eventually, but
20 then before the garage there's a walkway that you take for
21 the front door.

22 Q. Okay. Can you enter your house from your
23 garage? Is there a door?

24 A. Yes, you can.

25 Q. And where is that door located?

1 A. That -- once you get into the garage, it then
2 leads to the laundry room and then from the laundry room
3 into the family room.

4 Q. If I'm standing looking at your garage, like I'm
5 going to drive in it, you opened the door on the left. Is
6 the house to the left or is the house --

7 A. No, the house is to the right.

8 Q. So that's where the door to the laundry room
9 would be?

10 A. Correct.

11 Q. And the motorcycle was in between?

12 A. In between.

13 Q. Was the motorcycle closer to the far wall or was
14 it closer to --

15 A. It was right in the middle of the garage.

16 Q. Was it in the way of opening doors, car doors?

17 A. No.

18 Q. I have a two-car garage with two doors and I
19 don't think I could get a motorcycle between the two cars
20 and still open the doors.

21 A. Now could you ask that question once again?

22 Q. Yes.

23 How much space was between the two cars when
24 they were parked?

25 A. Okay. So the motorcycle would be parked a

1 little further in the garage, towards the end of the
2 garage; whereas, if I wanted to open the door, there was
3 still ample room.

4 Q. Can you estimate the distance between the
5 driver's side of one car and the passenger side of the
6 other?

7 A. Maybe a foot and a half between the motorcycle
8 and the front door. Or I'm sorry, the front door of the
9 car, yeah.

10 Q. How about the between the two cars? Forget the
11 motorcycle for a minute.

12 A. I don't know about -- roughly, I'm just
13 guessing, 4 feet?

14 Q. Let me go back to this --

15 A. Maybe probably more.

16 Q. Let me go back to this warning. Page 64 --

17 A. Sure.

18 Q. -- of Exhibit 1. Do you still have Exhibit 1?

19 A. Yes, I do.

20 Q. Okay. The second page -- second paragraph says,
21 ride away immediately after starting the engine.

22 You did not follow that warning, is that
23 correct?

24 A. I did not.

25 Q. Okay. The third paragraph says, to avoid

1 overheating air-cooled engine and possible damage as a
2 result, avoid even short warm-up periods at a standstill.

3 Did you follow that direction?

4 A. I did not.

5 Q. I said follow that direction, which appeared in
6 the manual?

7 A. I understand. No, I did not.

8 Q. Did you understand the risk of overheating of an
9 engine?

10 A. No, sir, I did not.

11 MR. HUGHES: Objection.

12 BY MR. HEINOLD:

13 Q. Why not?

14 MR. HUGHES: Go ahead.

15 THE WITNESS: I never -- as I said, never had an
16 air-cooled engine. And I just never thought that just
17 warming up a motorcycle would eventually, you know, catch
18 fire.

19 BY MR. HEINOLD:

20 Q. Well, you just used the word never thought, but
21 you told me before you read this -- that you did read this
22 warning when you owned the motorcycle?

23 A. As I had stated --

24 MR. HUGHES: Object to form.
25

1 BY MR. HEINOLD:

2 Q. Correct?

3 A. As I had stated before that at the time I did
4 start the vehicle and I left it running for a period of
5 time, that aspect of it was not in my -- I did not
6 remember that that was a -- you know, a big warning.

7 Q. I understand that you have said that.

8 A. Right.

9 Q. That wasn't my question.

10 My question was, you did admit to me that you
11 did, in fact, read this warning at some point prior to the
12 day of this fire, correct?

13 A. Correct. Yes.

14 Q. And when you read the warning, you understood
15 the words, correct?

16 A. Correct.

17 Q. I mean, you speak with an accent. You said
18 something about India. And I will get to that.

19 But you didn't have any trouble understanding
20 what these words meant, correct?

21 A. Correct, yes.

22 Q. So you understood the risk of overheating or
23 fire, at least when you read it?

24 MR. HUGHES: Objection.
25

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22

1 BY MR. HEINOLD:

2 Q. Correct?

3 A. Yes. As a matter of fact to be honest, I do not
4 recall -- I mean, I might have read it. But I do not
5 recall reading that particular warning. I mean, that's
6 my --

7 Q. You said before that you did, now you're saying
8 you're not sure. Why are you now not sure?

9 A. No, I'm saying that I might have -- I mean, as I
10 had stated, I read the book, but did I specifically
11 remember this particular warning? I don't recall.

12 Q. Okay. Do you recall you read it?

13 A. Sir, as I said, I mean I probably did.

14 Q. Okay. And if you read it, you would have
15 understood it when you read it?

16 A. Absolutely.

17 Q. And is there a reason why you wouldn't read some
18 portion of the manual? I think you told me you read it
19 all.

20 A. I did. Did I -- you know, this whole thing
21 register in my mind? I'm just not sure.

22 Q. Let's go to Page 55, which is the third page of
23 that exhibit.

24 A. Okay.

25 Q. That the title at the top says important notes?

1 A. Uh-huh.

2 Q. And on the right-hand side it talks about
3 starting, riding, parking. That's sort of the section
4 we're in.

5 A. Right.

6 Q. And on the lower right-hand side there's that
7 warning placard?

8 A. Uh-huh.

9 Q. Correct?

10 It has the warning symbol. It was the word
11 warning. It's in a box. It's all capitals. And it's in
12 bold. Right?

13 A. Yes.

14 Q. And it draws your attention to it, correct?

15 A. Yes.

16 Q. Did you read this warning?

17 MR. HUGHES: Object to the form. You're talking
18 about prior to the incident, correct?

19 MR. HEINOLD: Prior to the incident, yes.

20 THE WITNESS: I might have read it. I do not
21 recall.

22 BY MR. HEINOLD:

23 Q. As you sit here today, do you think you read it?

24 A. I mean, I read the manual. Did I really read
25 this particular warning and did it register or did I

1 remember it all throughout the time? I do not recall.

2 Q. Those are different questions. Reading,
3 registering and remembering.

4 Do you think you read it?

5 MR. HUGHES: Objection to form. Asked and
6 answered.

7 MR. HEINOLD: No it, hasn't been, but go ahead.

8 THE WITNESS: I might have.

9 BY MR. HEINOLD:

10 Q. You might have. Do you think you read it?

11 MR. HUGHES: Objection. Same objection.

12 THE WITNESS: I really don't have any answer to
13 my -- to I think. I mean, yeah, I might have read it.
14 Really, I mean.

15 BY MR. HEINOLD:

16 Q. I guess my question is --

17 A. Yes, sir.

18 Q. You said you read the manual, do you think it's
19 likely you read that part, too?

20 MR. HUGHES: Objection. Asked and answered.

21 THE WITNESS: Might have.

22 BY MR. HEINOLD:

23 Q. Okay. Now, I'm gonna read this part.

24 Make sure that whether riding or standing still
25 or when the motorcycle is parked, no easily flammable

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25

1 material, for example, hay, grass, leaves, clothing, or
2 luggage, et cetera, can come into contact with the hot
3 exhaust system.

4 Did I read that correctly?

5 A. Okay. Yes, sir.

6 Q. You did understand this had a hot exhaust
7 system?

8 A. Yes.

9 Q. You did understand that this was an internal
10 combustion engine that creates heat and needs to be
11 exhausted?

12 A. Yes.

13 Q. And then it says, do not allow the engine to
14 idle unnecessarily or for prolonged periods. Risk of
15 overheating or fire.

16 Did I read that correctly?

17 A. Yes.

18 Q. And so is it your testimony that you did not --
19 you don't know whether you read this or not, you might
20 have?

21 A. That is -- yes, that is one testimony that I
22 might have read it.

23 Q. Okay. Is there other testimony?

24 A. Well, in my mind, I link a motorcycle -- I
25 mean -- I mean --

Parvez Yazdani

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1 MR. HUGHES: He asked you, is there other
2 testimony is the question on the table.

3 THE WITNESS: No, there's no other.

4 BY MR. HEINOLD:

5 Q. Okay. What were you saying, in your mind what?

6 A. That if the motorcycle is idling is not going to
7 result in a -- you know, a fire.

8 Q. Why do you think that?

9 A. Because when you're -- when you're riding and
10 there's a traffic jam and you are there for maybe, you
11 know, I don't know, 15 minutes, 20 minutes, the bike is
12 not supposed to catch fire just because you're sitting
13 there on the motorcycle riding.

14 Q. Did you ever have that experience of sitting in
15 traffic?

16 A. Yes, sir.

17 Q. Without moving for that long?

18 A. In New York? Yes.

19 Q. And did you feel heat in the engine and the
20 exhaust?

21 A. I do not recall.

22 Q. And then it goes on to say, do not allow the
23 engine to idle unnecessarily or for prolonged periods,
24 risk of overheating or fire. Ride away immediately after
25 starting the engine.

1 You didn't ride away after starting this engine?

2 MR. HUGHES: You're talking about on the date of
3 the fire?

4 BY MR. HEINOLD:

5 Q. On the day of the fire.

6 A. No, I did not.

7 Q. And you did allow it to idle to the point of
8 fire, as your contention?

9 A. Yes.

10 Q. Why did you think that was safe? What steps did
11 you take to make sure that what you did was safe?

12 MR. HUGHES: Objection to form.

13 THE WITNESS: What steps I took that it was
14 safe?

15 BY MR. HEINOLD:

16 Q. Yes.

17 A. I mean, in my mind I did not -- at that time did
18 anything that it was unsafe. I don't know how to answer
19 your question.

20 Q. Well, you took an action where you started up
21 the engine. Why did you think that was safe? What did
22 you do -- well, let me ask you this. Did you think that
23 was safe?

24 A. Yes.

25 Q. Okay. Why did you think that was safe? What

1 did you do to make sure it was safe when the manual said
2 it wasn't safe?

3 A. And as I had said --

4 MR. HUGHES: Object to form.

5 THE WITNESS: -- that I do not recall the
6 specific instruction that, hey, do not start the
7 motorcycle and let it idle. I do not recall that part.

8 BY MR. HEINOLD:

9 Q. Okay. You will agree with me that you had the
10 manual?

11 A. Yes, sir.

12 Q. You will agree with me that the manual said
13 don't do what you did, correct?

14 A. Yes.

15 Q. And that if you do, you might start a fire. It
16 said that, right?

17 A. Yes.

18 Q. It was very clear about that, right?

19 A. Yes, it did.

20 Q. There's no mystery about it, correct?

21 A. Correct.

22 MR. HUGHES: Objection to form.

23 BY MR. HEINOLD:

24 Q. And that the manual -- you did read the manual,
25 at least parts of it?

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1 A. Yes, I did.

2 Q. And you may even have read this part, except you
3 don't recall?

4 A. Correct.

5 Q. And if you did, your testimony is that it may
6 have registered then, but you didn't remember it by
7 February of 2013?

8 MR. HUGHES: Object to form.

9 BY MR. HEINOLD:

10 Q. Correct?

11 A. Correct.

12 Q. But it was in there to be read?

13 A. Yes, sir.

14 Q. Available for you to read it?

15 A. Correct.

16 Q. Let me rewind a little bit.

17 A. Sure.

18 Q. How old are you, sir?

19 A. I am --

20 Q. What's your date of birth?

21 A. 1950.

22 Q. What?

23 A. August of 1950.

24 Q. And you said earlier you had motorcycles in
25 India?

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1 A. Yes.

2 Q. Is that where you were born?

3 A. Yes, I was.

4 Q. And when did you -- when did you come to the
5 United States?

6 A. 19 -- towards the end of 1976.

7 Q. And did you go to school in India?

8 A. Yes.

9 Q. You would have been 26 when you came here, did
10 you --

11 A. Correct.

12 Q. I don't understand -- or I should say this. I
13 don't know the education system in India.

14 Did you have what in the United States we would
15 consider a college education?

16 A. Yes, I did.

17 Q. Okay. Did you get that in India?

18 A. Yes, I did.

19 Q. And what was your major or your concentration?

20 A. Economics.

21 Q. And do you have --

22 A. A Bachelor's in Economics.

23 Q. And do you have an advanced degree?

24 A. No.

25 Q. And when you came to the United States in 1976,

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1 what was the purpose of coming here?

2 A. The purpose was to migrate to United States and
3 live here.

4 Q. And have you lived here since 1976?

5 A. Yes, I have.

6 Q. Have you become a citizen of the United States?

7 A. Yes, I have.

8 Q. Congratulations.

9 A. Thank you, sir.

10 Q. When was that?

11 A. I do not recall the exact year, but I would say
12 I got married in 1980. '79. 1979, I think. I'm not sure
13 of that though.

14 MR. HEINOLD: Off the record.

15 (Discussion held off the record.)

16 BY MR. HEINOLD:

17 Q. You said you were married?

18 A. Yes.

19 Q. What's your wife's name?

20 A. Razia, R-A-Z-I-A.

21 Q. Okay. And she's still your wife?

22 A. Yes, sir.

23 Q. She's also a plaintiff in this case?

24 SKWR: Objection. No. This is filed as -- this
25 is an -- Allstate is the real party in interest.

1 THE COURT: They're not on the caption.

2 MR. HUGHES: This case was filed in state court
3 pursuant to Pennsylvania Civil Rule 2002D. In a
4 subrogation case, you can file under the name of the
5 insureds.

6 MR. HEINOLD: I understand that, but you will
7 agree that the named insureds are Mr. Yazdani -- the
8 captioned plaintiffs are Mr. Yazdani and Mrs. Yazdani.

9 MR. HUGHES: That is correct. The captioned
10 plaintiffs are Mr. Yazdani.

11 MR. HEINOLD: I'm not trying to gain an
12 advantage on that point. I just -- that's the name on the
13 complaint, correct?

14 MR. HUGHES: Correct.

15 BY MR. HEINOLD:

16 Q. Do you have children?

17 A. Yes, sir, I do.

18 Q. How many and what are their ages?

19 A. Two. And one was born in 1986 and one was born
20 in 1983.

21 Q. Okay. Where do they live?

22 A. One in Houston. He's an environmental safety
23 engineer. And one is doing -- the younger one is doing
24 residency in Philadelphia.

25 Q. Where?

1 A. Philadelphia.

2 Q. What hospital? Oh, Einstein?

3 A. I believe it's Einstein, yes.

4 Q. Okay. Any grandchildren?

5 A. Yes. One.

6 Q. How old?

7 A. He is going to be two years old come December.

8 Q. I only ask that, because I have one and she will
9 be one year old in December and I think it's pretty cool.

10 A. It is.

11 Q. What do you do for a living?

12 A. I'm retired. I worked for -- I'm retired.

13 Q. What did you do?

14 A. I was a computer systems analyst. I worked for
15 Commonwealth of Pennsylvania, Department of Public
16 Welfare.

17 Q. And in what capacity? When you say computer
18 systems analyst, what were you analyzing?

19 A. The -- all the assistance, cash assistance, food
20 stamp assistance, medical assistance, their programs.

21 Q. How long were you so employed?

22 A. Well, I got the job in 1978, towards the end of
23 1978. And retired in 2010. Middle of 2010. August of
24 2010.

25 Q. Okay.

1 A. And as per the computer job, I started in 1980.
2 Prior to that I was in accounting.

3 Q. Okay. Are you doing any type of work where
4 you're earning income now that you're retired?

5 A. No, sir.

6 Q. Any consulting, any part-time job, any business
7 you started, anything like that?

8 A. No.

9 Q. You're just enjoying retirement?

10 A. Yes.

11 Q. How about your wife?

12 A. No, she's not.

13 Q. Does she work?

14 A. I'm sorry?

15 Q. Does she work?

16 A. No, she does not.

17 Q. Was she ever employed outside the home?

18 A. Yes.

19 Q. And what did she do?

20 A. She was a -- she was also in IT with Blue Cross.

21 Q. Out here in the Harrisburg area?

22 A. Yes.

23 Q. And did she retire?

24 A. Yes, she did.

25 Q. And when did she retire?

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1 A. She just retired in December of 2010.

2 Q. Does she also like motorcycles?

3 A. No, she does not.

4 Q. You're the only motorcycle rider in the family?

5 A. Yes, sir.

6 Q. How about your kids?

7 A. No, they do not. I do not allow them to.

8 Q. All right. Now, I'd like to understand your
9 history of ownership of motorcycles.

10 A. Sure.

11 Q. Or use, if you rented one and didn't own it, you
12 know.

13 You said you had a motorcycle or something in
14 India. You said it was a scooter?

15 A. Yes.

16 Q. Okay. Do you know the brand?

17 A. It was -- I believe it was a Java and -- let me
18 correct myself.

19 Q. Okay.

20 A. Might be Java or a Lambretta.

21 Q. Lambretta?

22 A. Yes.

23 Q. All right. Now, I forgot to tell you in the
24 beginning, if you need to take a break for any reason,
25 just say so.

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1 A. Yes, I will.

2 Q. And you mentioned earlier that you smoke
3 cigarettes?

4 A. No, I don't now.

5 Q. You stopped?

6 A. I stopped.

7 Q. I was going to say, if you need to take a break
8 and smoke a cigarette, do that. I want you to be
9 comfortable.

10 other than a scooter, did you own anything else
11 in India?

12 A. No. Well, no. It was actually a friend of mine
13 who had a Java who was traveling a lot, but he had his
14 motorcycle parked at my house and I used that a lot.

15 Q. Is that the same thing that we're talking about
16 or is that a separate one?

17 A. No, it's actually a motorcycle.

18 Q. And do you know what brand it was?

19 A. This was the Java.

20 Q. The Java motorcycle?

21 A. Right.

22 Q. And a Java or Lambretta scooter?

23 A. Lambretta is a scooter.

24 Q. And Java is a motorcycle?

25 A. Java is a motorcycle.

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1 Q. And so you used your friend's?

2 A. Yes.

3 Q. Do you know, like, what model it was?

4 A. No, I do not. There was only one Java, I
5 believe, at that time.

6 Q. Any -- how often would you ride it?

7 A. Scooter I road just about everyday. Going to
8 college, back and forth. Motorcycle not that often.

9 Q. When you came to the United States, just tell me
10 how many motorcycles have you owned?

11 A. In all two.

12 Q. Okay. What was the first one?

13 A. The first one was a Yamaha.

14 Q. Do you remember what year, what model?

15 A. I do not remember the year. Must have been --
16 somewhere around like a 1979 or an '80.

17 Q. Do you remember the model?

18 A. Again, I'm not sure whether it was a 500 or a
19 750.

20 Q. Were there any other model designations with it?

21 A. I do not recall.

22 Q. Do you know what I mean by that?

23 A. Yes.

24 Q. This one is like an R150.

25 A. I do not recall about it.

1 Q. And when did you buy that? Did you buy it new?

2 A. No. Used.

3 Q. And where did you buy it?

4 A. In Harrisburg. I do not recall the name of the
5 place that I bought it.

6 Q. Was it a shop that sold them?

7 A. No, it was a private party.

8 Q. And what caused you to buy that particular
9 motorcycle?

10 A. I just needed one and I did not really know much
11 about different types of motorcycles and the price and the
12 condition of the motorcycle. It was just -- I don't
13 really recall as to why that particular one.

14 Q. Okay. Do you remember when you bought this?

15 A. It was after I got married. So it must have
16 been '81, '82.

17 Q. Do you remember the price?

18 A. No, I don't.

19 Q. The approximate price?

20 A. No, sir.

21 Q. Are we talking about a thousand dollars, \$5,000?

22 A. That will be just pure guess if I -- no, I do
23 not remember.

24 Q. Do you think it was less than ten?

25 A. It was less than ten.

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1 Q. Do you think it was less than five?

2 A. That would be just guessing. It was probably
3 less than five.

4 Q. How often did you ride it?

5 A. In the beginning I rode quite often. But then
6 it just was sitting in the garage for quite sometime.

7 Q. Well, what purpose did you buy it? You said --
8 I think you said you needed a motorcycle?

9 A. No. Did I say that I needed a motorcycle?

10 Q. I thought you did. I could be wrong. The words
11 will be there.

12 A. Well, if I said that, then let me correct. No,
13 I did not need it for transportation. Needed it meaning
14 to say I just wanted a motorcycle.

15 Q. Okay.

16 A. My English --

17 Q. So it was for recreation?

18 A. Yes.

19 Q. How often would you ride?

20 A. I do not recall. Probably initially when I
21 bought it, quite often. And by that I just cannot define
22 what more often is.

23 Q. Okay.

24 A. But pretty soon I just kind of was riding
25 maybe -- you know, hardly riding, let me just put it,

1 because I do not recall.

2 Q. How long did you ride it often? How many years?
3 Just trying to get a sense of the time frame.

4 A. I mean, I think after about three, four years, I
5 wanted to sell the motorcycle. I just could not or did
6 not -- could not -- mean to say, I was not getting the
7 price I was looking for and it just sat there.

8 Q. So would you say you rode it often for maybe a
9 year?

10 A. A year or maybe two years.

11 Q. And then not much. And then you sold it after
12 like it sat another year or two?

13 A. Right. I mean -- I sold it when I moved to
14 another house of mine where it sat for quite sometime and
15 I cannot give you the year.

16 Oh, it was, I think, 2001 or 2000. Somewhere
17 around there. 2000 or 2001 that I sold the motorcycle.

18 Q. All right. So you had it for --

19 A. Quite sometime.

20 Q. Twenty years?

21 A. Yes.

22 Q. Oh, okay. I had a different impression.

23 So of those 20 years, it sat without very much
24 use for most of it?

25 A. Absolutely. Absolutely. I mean, it just -- to

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1 a point where it would not even start. Just rotting away.

2 Q. So you sold it?

3 A. Yes.

4 Q. And then did you buy another motorcycle in 2000,
5 2001?

6 A. In 2001, yes.

7 Q. Okay. What did you buy in 2001?

8 A. Oh, 2001? No, I did not. I'm sorry. I did
9 not.

10 Q. Did you buy any other motorcycles before this
11 motorcycle?

12 A. No, I did not.

13 Q. This BMW?

14 A. No, I did not.

15 Q. What caused you to decide to buy this BMW?

16 Well, let me start that over. What caused you
17 to decide you wanted a motorcycle?

18 A. Well, I mean, I always had liked and loved
19 motorcycles. And after retiring, I wanted to, you know,
20 have one as a recreational.

21 Q. And tell me about the process that you used to
22 determine what motorcycle you were going to purchase.

23 A. There was not really much of a process. I mean,
24 I am biased to BMWs for -- I don't know for reading and --
25 I mean, I read quite a bit about -- as to which of the

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1 motorcycles, which are good. And decided on a BMW.

2 Q. Okay. Why are you biased toward BMW? Because
3 of the reading on motorcycles?

4 A. Reading on motorcycles. Because I didn't have a
5 personal experience on, at least, BMW motorcycle, even
6 though I did have quite a bit of experience in cars and
7 stuff like that.

8 Q. Did you own BMW automobiles?

9 A. Yes, I did.

10 Q. Okay. What did you own?

11 A. I'm sorry?

12 Q. What BMW automobiles did you own?

13 A. It was a -- I don't even recall the model, but
14 it was a 320 something.

15 Q. What year?

16 A. I do not recall. But right now I'm driving a
17 BMW 328. But I do not recall the previous BMW that I had.

18 Q. What year is your current BMW 328?

19 A. I believe it's a 2000.

20 Q. Did you buy that new?

21 A. No.

22 Q. Did you buy that privately or at a dealer?

23 A. I bought it through a dealer.

24 Q. Does your wife have a vehicle?

25 A. Yes, she does.

1 Q. What's she have?

2 A. She has a Lexus ES350 and I believe it's 2013 or
3 2014.

4 Q. Buy that new?

5 A. I'm sorry?

6 Q. Did you buy that new?

7 A. Yes, I did.

8 Q. Where did you do your reading on BMW
9 motorcycles?

10 Well, let me ask that question different.
11 Before buying -- deciding to buy a motorcycle, you did
12 some research and reading?

13 A. Right.

14 Q. Where were you doing your research and reading?

15 A. Mostly online.

16 Q. And were there particular sites that you were
17 looking for?

18 A. Not really. I mean, I just would -- you know,
19 because the constraint was the amount of money that I
20 would spend and which are the best motorcycles for that
21 range of money. So I didn't go to any particular site.

22 Q. So did you just like go on Google or some search
23 engine and look for --

24 A. Exactly.

25 Q. -- used motorcycles and comments?

1 A. Exactly.

2 Q. And blogs and things like that?

3 A. Yes.

4 Q. Did you do that on your home computer?

5 A. Yes, I did.

6 Q. And do you remember any particular sites?

7 A. No, I don't.

8 Q. Do you remember reading anything about
9 air-cooled versus water-cooled engines?

10 A. No.

11 Q. You don't remember any of that?

12 A. No, I don't remember.

13 Q. Do you remember reading anything about risks of
14 fire?

15 A. No, I do not.

16 Q. Or overheating?

17 A. None.

18 Q. Do you remember reading any criticisms of BMW
19 motorcycles?

20 A. None.

21 Q. Okay. So what was it about BMW that made you
22 decide that you wanted a BMW motorcycle?

23 A. Because they're well-known. They are very
24 dependable. And the reviews were very good. And
25 basically that's it.

1 Q. You don't remember particular reviews? You're
2 just saying you remember reading about them and the
3 reviews were good?

4 A. Yes.

5 Q. You can't cite me to any particular place --

6 A. No.

7 Q. -- where I could go now look?

8 A. I cannot.

9 Q. So what features were you looking for? What
10 governed your decision about what you were then gonna look
11 for?

12 A. Something not very big that I cannot handle.
13 Something in between. Basically that was it.

14 As far as the BMW was concerned, there were some
15 BMWs that I really liked, but they were quite heavy, so
16 that I ruled out.

17 Q. Do you remember what, like, models were too
18 heavy?

19 A. As a matter of fact, I really liked 1150RT,
20 which is very similar to R1150RT that I had, but since it
21 was a motorcycle which was dressed, had a lot of other,
22 you know, features on it. I don't know, the term is
23 dressed. But it was quite heavy. And for that reason I
24 decided that I would rather get this particular
25 motorcycle.

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1 Q. All right. I thought you said something about
2 shaft-driven?

3 A. Oh, yes.

4 Q. What is that when you say shaft-driven?

5 A. I mean, shaft-driven versus a chain-driver.

6 Q. Right. What's the alternative?

7 A. A chain.

8 Q. What's the alternative to chain-driven?

9 A. The shaft.

10 Q. Oh, all right. You wanted shaft-driven, not
11 chain-driven?

12 A. That's correct.

13 Can I have that five minutes of break?

14 MR. HEINOLD: Yes. Absolutely.

15 (Brief recess.)

16 BY MR. HEINOLD:

17 Q. We were talking about your decision to purchase
18 this particular motorcycle. And you had said you wanted
19 shaft-driven. You wanted something that was the right
20 size for you.

21 A. Right.

22 Q. And you also mentioned a price range.

23 You didn't mention it, but you said within your
24 price range.

25 A. Yes.

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1 Q. what was your price range?

2 A. I mean, around six, seven.

3 MR. HUGHES: Thousand?

4 THE WITNESS: Thousand dollars. I'm sorry.

5 Yeah.

6 BY MR. HEINOLD:

7 Q. And were there any other features that you
8 wanted?

9 A. A motorcycle that if I wanted to take it for a
10 long trip that I would be able to, you know.

11 Q. And what about this motorcycle would permit
12 that?

13 A. Because of its size. That if it would have been
14 a smaller motorcycle that I would not have been --
15 probably was not very safe to get onto the highway and,
16 you know --

17 Q. Okay. I'm assuming you had a motorcycle license
18 back when you bought the motorcycle in 1979?

19 A. Yes.

20 Q. Or '80, '81 whenever that was?

21 A. I did.

22 Q. Do you keep that the entire time?

23 A. No.

24 Q. Did you have to get another one?

25 A. Exactly.

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1 Q. When did you renew or refresh, or whatever, your
2 motorcycle license?

3 A. At the time when I bought the motorcycle.

4 Q. Okay. So that was around April of 2011?

5 A. Correct.

6 Q. So you would have renewed your license before
7 going up there to retrieve it?

8 A. I do not recall. To be honest, I do not recall.
9 It was a learner's permit that I got.

10 Q. Did that permit you to drive the motorcycle from
11 Boston back here?

12 A. That part I do not recall.

13 Q. So how did you come across this particular
14 motorcycle on Craigslist?

15 A. I mean, I was looking for this particular
16 motorcycle because of the reviews and stuff that I had
17 read.

18 Q. Okay.

19 A. And this gentleman was selling this bike and was
20 asking a pretty reasonable price.

21 Q. Okay. You don't remember his name?

22 A. Yes, I do now.

23 Q. Oh, you found -- I haven't gone through that
24 yet.

25 A. Yes.

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1 Q. But you now remember?

2 A. Yes, I do.

3 Q. How did you communicate with him? Telephone?

4 A. Initially I think it was over the phone.

5 Q. Did you have any e-mail communication with him?

6 A. I do not recall the e-mail communication. I

7 might have had initially, might have. Because

8 initially -- I'm not really sure whether he had his

9 telephone number there or not.

10 Q. When you were buying -- in the process of buying
11 this, were you aware of the distinction between air-cooled
12 engines and water-cooled engines or other cooling
13 mechanisms?

14 A. No, I did not.

15 Q. Did you have any -- when you read about
16 motorcycles, did you have any idea about that?

17 Did you see, like, not necessarily BMW, but
18 other models that were air-cooled versus some other
19 cooling methods?

20 A. No, I did not.

21 Q. Did you have any understanding of the cooling
22 mechanism of the motorcycle when you bought it?

23 A. I mean, I understand the cooling method.

24 Q. Which was air-cooled?

25 A. Which is either air-cooled or water-cooled. I

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1 understand the method, but --

2 Q. Did you understand this motorcycle was
3 air-cooled as compared to water-cooled?

4 MR. HUGHES: At the time he purchased it?

5 THE WITNESS: At the time I bought it? No, I
6 did not.

7 BY MR. HEINOLD:

8 Q. Did you learn any time from the time of the
9 purchase prior to the date of the fire that this was an
10 air-cooled engine?

11 A. I do not remember really understanding that this
12 is an air-cooled engine. That part never entered my mind.

13 Q. Well, I know we talked earlier about the manual
14 that describes it as an air-cooled engine.

15 A. Yes.

16 Q. And the risks of starting it and leaving it in a
17 standstill. And I'm not gonna review that. But we talked
18 about whether you read it and it registered or then later
19 forgot, either.

20 Other than the manual, what was in there, did
21 you have any independent appreciation for the fact this
22 was an air-cooled engine?

23 A. No, I did not.

24 Q. Were you looking for any particular features,
25 like a manual choke or an automatic choke or fuel

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1 injection or anything like that?

2 A. No.

3 Q. Do you know what this motorcycle had? Do you
4 know if it was a fuel-injected engine?

5 A. No.

6 Q. Do you know whether it had a choke and if so,
7 whether it was manual or automatic?

8 A. Yes. I remember that it had a choke.

9 Q. How --

10 A. It was a two-stage choke. I read that in the
11 manual.

12 Q. You read the two-stage choke in the manual?

13 A. Yes.

14 Q. Did you understand the two-stage choke before
15 you read it?

16 A. No.

17 Q. So you read the manual and you learned about the
18 two-stage choke?

19 A. Yes.

20 Q. Can you now tell me how it worked? Do you
21 remember?

22 A. To best of my knowledge, I think initially when
23 cold -- started the engine was very cold, that you put it
24 at the higher choke. And what I read actually was that it
25 did not change the fuel injection part of it.

1 It was just a matter of increasing the
2 acceleration -- accelerator on number two position, which
3 was higher. And then you could, once it was warmed up
4 enough, that you could lower it down to number one
5 position.

6 And then when you were satisfied that it was
7 running fine, then you could turn it off.

8 Q. So you negotiated, you came up with a price.
9 You went to Boston, paid him and drove it home?

10 A. Yes.

11 Q. And after this motorcycle was damaged, have you
12 purchased another motorcycle?

13 A. No.

14 Q. Or used another motorcycle?

15 A. No.

16 Q. Rented one for trips or things like that?

17 A. No.

18 Q. So this one and the Yamaha are the only two
19 motorcycles that you've owned in the U.S.?

20 A. Correct.

21 Q. Have you ever rented one to ride?

22 A. No.

23 Q. You know, like for a weekend or a trip or
24 something?

25 A. I rented it one time and that was for a very

1 short brief period of time, because I had to go and get a
2 license. And that day my motorcycle had some work to be
3 done and I took it to these guys and they said it would
4 take maybe two hours, so I said, look, I have to go and
5 get a driver's test done. So they rented me a motorcycle
6 of their own. Do not recall what model it was.

7 Q. Do those guys appear in any of the documents you
8 brought with you today?

9 A. It was rented by the place where I kept the
10 motorcycle serviced, which was Velocity Motorcycle.

11 Q. What town is that?

12 A. It is in Mechanicsburg.

13 Q. What type of riding did you do with the BMW?

14 A. I did not ride too many times. You know what I
15 mean? Periodically I just run up and -- to get something.

16 Q. Like to the store you mean?

17 A. To a store, yes.

18 Q. Like how far, like a mile, two miles?

19 A. Yes. About that.

20 And the only long-distance riding that I did was
21 twice. Once was when I went to Atlanta, Georgia. And
22 once I went to this place is called Pine Creek Gorge,
23 Tioga County. So that's the only two long-distance.

24 Q. Where is that?

25 A. It's called Pine Creek Gorge.

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1 Q. What state?

2 A. It's in Pennsylvania.

3 Q. You're looking at some document.

4 Did you bring some notes with you today?

5 A. Well, I just kind of, you know -- if you want to
6 take a look at it.

7 Q. What's the purpose of your notes?

8 A. I mean, my -- I forget quite a bit of dates and
9 time. And so just want to make sure that whatever I say
10 that I don't get mixed up with the date, the date and
11 time, the facts. Nothing really much in there.

12 Q. Do you have a degree in -- did you ride in any
13 clubs?

14 A. No, I didn't.

15 Q. You know, like you wore a motorcycle jacket that
16 had like wild Economists on your back?

17 A. No.

18 Q. Or IT Renegades or something?

19 A. No, I did not.

20 Q. Did you ride with anybody or like a friend or
21 something?

22 A. No.

23 Q. Just by yourself?

24 A. Yeah. It was unfortunate I could not find
25 anyone that I could ride with.

1 Q. When you rode to Atlanta, what does your note
2 say about when that was? July?

3 A. Yeah, it must have been July. And, again, that
4 is a month that I'm not -- there's a question mark there.
5 Because when I did drive to Atlanta, I felt that the
6 motorcycle was a little sluggish.

7 Q. Okay. So you came back and went to Velocity?

8 A. No, I came back. I was not very happy with
9 velocity, the type of stuff that -- or maintenance that
10 they did.

11 So I took the motorcycle to a well-known BMW
12 dealer in Maryland called Bob's BMW. The record that
13 you --

14 Q. And what did they tell you?

15 A. I think there was some sort of a -- I don't know
16 what the heck it is called. Probably you could find it in
17 the --

18 Q. I'll look through those in a moment.

19 was that -- you thought the idle was sluggish.
20 Is that what that said?

21 A. Well, what it was was that the motorcycle was
22 sluggish. And then if you just -- was idling that it had
23 like a hunting -- that the RPM would drop, would go up,
24 would drop. So that was -- I was not really happy about
25 that.

1 Q. That was on your trip to Atlanta?

2 A. During that time.

3 Q. Okay. What was the purpose of the trip to
4 Atlanta?

5 A. My uncle is there. And I wanted to kind of have
6 the feather in my cap to say, hey --

7 Q. I rode the bike?

8 A. I rode the bike.

9 Q. Did you go alone?

10 A. Yes, I did.

11 Q. And when you went to Tioga County, did you go
12 alone?

13 A. Yes, I did.

14 Q. So other than those trips, was it just mostly
15 local riding?

16 A. Yes. To best of my knowledge.

17 Q. Did you take any classes or courses on
18 motorcycle riding and safety?

19 A. No, I did not.

20 Q. What does it take to get your motorcycle
21 license? A written test and --

22 A. And a very -- I mean, the driving test was
23 quite, you know, extensive. It took almost half a day. I
24 mean, they made me do all kinds of stuff.

25 Q. Do you wear a helmet when you ride?

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1 A. Yes, sir, I do.

2 Q. And I think you told me before, you never
3 experienced -- let me just state it in the form of a
4 question.

5 In your riding, did you ever sit in traffic and
6 feel the heat from the engine or the exhaust as you sat
7 there?

8 A. No.

9 Q. What kind of clothes did you wear when you rode?

10 A. Depends. You know, usually --

11 Q. Blue jeans or something like that?

12 A. Blue jeans or khakis or --

13 Q. I didn't know if you had like the leather pants?

14 A. No, nothing of that sort. I did have a leather
15 jacket with all the protective features in it.

16 Q. Have your name on it?

17 A. I'm sorry?

18 Q. Does it have your name on it or anything crazy?

19 A. I do not.

20 Q. I don't know if I asked you this. Did you
21 subscribe to any periodical as regarding motorcycles?

22 A. No, I do not.

23 Q. Magazines or online subscriptions or anything
24 like that?

25 A. No, I do not.

1 Q. Not now, but then?

2 A. No.

3 Q. So your research was limited to the purchase
4 part?

5 A. Yes.

6 Q. The decision to purchase?

7 A. Yes.

8 Q. Okay. You didn't continue with sort of any type
9 of hobby or enthusiast periodicals or readings?

10 A. No, sir.

11 Q. Had you ever heard of a motorcycle fire from
12 leaving a motorcycle running at a standstill prior to
13 this?

14 A. Not prior to the incident.

15 Q. Okay.

16 A. But after the incident, I was quite curious as
17 to what happened and I did kind of, you know, just got
18 onto Google.

19 Q. What did you learn?

20 A. I'm sorry?

21 Q. What did you learn when you went onto Google?

22 A. There were some chat rooms that it happened to
23 somebody and that's all I remember. I mean, I -- you
24 know, that a few people were talking that it did happen to
25 somebody.

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1 Q. Do you remember whether they were air-cooled
2 engines or some other reason?

3 A. I believe that -- the article was on BMWs per
4 se.

5 Q. BMW?

6 A. Yeah. Motorcycle.

7 Q. Do you remember what it was?

8 A. You mean the model?

9 Q. The article. If I wanted to go find it --

10 A. It was a chat thing and, you know, I do not
11 remember the site.

12 Q. Did you find any on any other manufacturers?

13 A. I didn't look for any other manufacturers.

14 Q. So your search was specific to BMWs?

15 A. Yes.

16 Q. Rather than air-cooled engines generally?

17 A. Rather than air-cooled engines.

18 Q. Anything else you found out?

19 A. No.

20 Q. Do you know what models they were?

21 A. I do not remember.

22 Q. Do you remember when?

23 A. You mean, when I looked at that information?

24 Q. Yes.

25 A. Must have been after the incident, somewhere in

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1 2014. I don't remember the timing of that.

2 Q. When you looked, did you look up air-cooled or
3 did you look up --

4 A. No, I didn't.

5 Q. You just looked at what, BMW motorcycle fires?

6 A. Right.

7 Q. Did you ever find out this was an air-cooled
8 engine?

9 A. No.

10 Q. So the fact that I've used the word air-cooled,
11 is that the first you've heard that?

12 A. No. I mean, I'm aware of what an air-cooled as
13 I have stated -- what air-cooled and water-cooled is.

14 But whether I registered this particular bike
15 that it was an air-cooled engine, it never stayed with me.
16 Might have known that this is an air-cooled engine, but it
17 just --

18 Q. Is today the first day that you made the
19 connection between an -- that there was an air-cooled
20 engine and there was a fire or did you make that
21 connection earlier?

22 A. Probably today.

23 MR. HUGHES: Object to form, but --

24 BY MR. HEINOLD:

25 Q. Today. Okay.

1 So you weren't aware before today that the
2 allegation in this case is that the fire resulted because
3 this was an air-cooled engine that was --

4 A. No.

5 Q. I am correct that you were not aware?

6 A. Yes. I'm not aware, because -- I didn't link
7 this accident with anything to do with air-cooled engine.

8 Q. Okay. Until today?

9 A. Until today.

10 Q. When I questioned you about it?

11 A. Yes, sir.

12 Q. Have you told the story about the fire to anyone
13 other than to me?

14 A. I mean --

15 Q. Like what happened?

16 A. Just about everybody in my --

17 Q. Your family?

18 A. -- in my family. In my social circle, everybody
19 knows and have talked about it.

20 Q. Anyone else? I'm assuming you're his attorney
21 for the attorney/client privilege.

22 MR. HUGHES: Correct.

23 BY MR. HEINOLD:

24 Q. Have you met with any engineers and told your
25 story?

1 A. No.

2 Q. Other than your attorney, am I the first one to
3 ask you any details about your ownership and the service
4 of this?

5 A. No.

6 Q. I'm not the first?

7 A. I'm sorry. Say that again?

8 Q. Other than your attorney, am I the first to ask
9 you questions about your ownership and the service history
10 and what happened that day?

11 A. Yes. You are the first.

12 Q. Other than friends?

13 A. Friends.

14 Q. Maybe the firemen who came that day?

15 A. Right. I mean -- could you repeat that
16 question?

17 Q. Sure.

18 Other than your attorney and other than your
19 friends in your social circle and perhaps the fire
20 department who came to your house that day, am I the only
21 person who has asked you details about your ownership and
22 what happened that day and your understanding of the
23 motorcycle, et cetera?

24 A. Well, I mean, my friends are not aware of the
25 details that you are asking about, if that is what you're

1 asking.

2 You're the first person who's gone into details
3 of asking, you know, the previous ownership and all the
4 details.

5 Q. Other than your attorney and your friends in
6 your social circle and your family and the fire
7 department, has anyone asked you what happened that day
8 other than me?

9 A. No.

10 Q. I want to be really specific now.

11 we've talked a little bit about the day of the
12 fire.

13 Can you tell me what time it happened?

14 A. I think it was around 3:45 to the best of my
15 knowledge.

16 Q. Do you remember what day of the week it was?

17 A. No.

18 Q. You're retired, so I guess there's no big
19 difference between Wednesday and Saturday right?

20 A. Correct.

21 Q. Okay. Why did you decide to start the
22 motorcycle that day?

23 A. As I stated before, periodically I would start
24 the motorcycle. There was no any particular day that I
25 had in mind, just --

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1 Q. And what was the purpose for starting it?

2 A. As I had indicated before, you know, I had not
3 winterized the motorcycle and I just wanted to keep it --
4 everything kind of running and keep it --

5 Q. And you had said before that you've done this a
6 number of times?

7 A. Yes.

8 Q. And that you normally would start it up, have a
9 cigarette and then shut it down?

10 A. Right.

11 Q. And that would be your estimate, was seven to
12 nine minutes, something like that?

13 A. Yeah. I mean, that's exactly about the time
14 that I -- it took me to finish the cigarette.

15 Q. And what was different this time?

16 A. The difference -- the big difference is the fact
17 that I started the motorcycle and I got distracted, left
18 the garage, got into the house, and then forgot about that
19 I had started the motorcycle.

20 Q. What distracted you?

21 A. And that is something that in my mind I thought
22 it was a telephone call, but I'm not really sure.

23 Q. And when you went in the house, did you go in
24 through the garage or did you go around the front?

25 A. No. No. Through the garage. Through the

1 laundry room.

2 Q. Okay. And I think in your answers to
3 interrogatories, you said that was about 30 minutes?

4 A. I'm sorry?

5 Q. You said that was about 30 minutes.

6 Let me start over. What's the next thing -- how
7 did you know there was some -- let me start that over.

8 I'm sorry. So you got distracted. You went in
9 the house and you forgot the motorcycle was running?

10 A. Right.

11 Q. What's the next thing that you recall?

12 A. The fire alarm.

13 Q. And is that a fire alarm, a smoke detector?

14 A. Yes.

15 Q. Where is the smoke detector in your --

16 A. Right when you enter -- from the garage onto the
17 laundry room. And then as you entered into -- from the
18 laundry room onto the hallway, there's a smoke detector
19 there.

20 Q. Okay. So there's a smoke detector in the
21 ceiling after you go through the laundry room?

22 A. Correct.

23 Q. And there's a door from the garage to the
24 laundry room, right?

25 A. Yes. There's the door from the garage onto --

1 into the laundry room and then there's a door from the
2 laundry room to the hallway.

3 Q. So the door from the laundry room to the
4 hallway, is that simply an interior door?

5 A. Yes.

6 Q. Probably hollow wood or something like that?

7 A. Yes.

8 Q. How about the door from the garage?

9 A. That also is hollow.

10 Q. That was hollow. That wasn't like weather
11 sealed or anything stronger to prevent unwanted entry?

12 A. No, sir.

13 Q. Okay. Was there any weather strip or anything
14 at the bottom of that door sort of at the threshold?

15 A. A pretty tattered one. I believe it was all
16 hanging loose.

17 Q. You know what I'm talking about, right --

18 A. Yes. There's a weather --

19 Q. -- for energy, efficiency purposes, exterior
20 doors.

21 Your garage wasn't heated, correct?

22 A. No.

23 Q. I asked that badly.

24 Was your garage heated?

25 A. No.

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1 Q. So that was an exterior door and there was a
2 weather strip?

3 A. You're talking about the garage door?

4 Q. The garage -- from the garage into the laundry
5 room, I'm sorry, had a weather strip at the bottom that
6 was tattered?

7 A. It did, but it was -- yes.

8 Q. And you heard the fire alarm from the smoke
9 detector in the hallway on the other side of the laundry
10 room?

11 A. Correct.

12 Q. Smoke detector.

13 Was that wired through the whole house or was
14 that just that smoke detector?

15 A. No, I think it's wired through the whole house.

16 Q. But where were you when you heard the alarm?

17 A. I was in the -- right next to the smoking -- to
18 the smoke alarm, which is in the family room.

19 Q. In the family room?

20 A. Family room. I mean, the hallway leads to the
21 family room.

22 Q. How far were you from --

23 A. The smoke alarm?

24 Q. Yes.

25 A. 15 feet.

1 Q. From the one in the hallway?

2 A. Yes.

3 Q. And was the door closed -- let me ask -- there's
4 no door between the hallway and the family room?

5 A. Nope.

6 Q. Did you hear smoke before you saw it?

7 A. Did I --

8 Q. Did you hear the smoke detector before you saw
9 smoke?

10 A. Could you repeat the question?

11 Q. Yes.

12 Did you hear the smoke alarm before you saw
13 smoke or smelled smoke?

14 A. I did not smell any smoke. The only time I was
15 aware of something went wrong was the smoke alarm.

16 Q. Okay. So the alarm went off?

17 A. Right.

18 Q. Did you turn in the direction of the garage? Do
19 you remember what you did?

20 A. Yes. I mean, as a matter of fact, as soon as
21 the alarm went off, the only thing which I then realized
22 was the motorcycle and I rushed into the garage right
23 then, right away.

24 Q. Did you call 911 first?

25 A. I mean, I came into the garage. I saw the

1 motorcycle, you know, was on fire. And the first thing I
2 wanted to do was get the motorcycle out of the garage.

3 So as a matter of fact, in the process of doing
4 so, I sort of squashed my hand, also. But I cannot reach
5 both the handles, because the fire was coming out, so I
6 grabbed ahold of the clamp, one handle and the clamp and I
7 was trying to get the bike out of the garage, but there
8 was oil seeped onto the floor of the garage and just --
9 the motorcycle slipped and I wasn't able to pull the whole
10 motorcycle out of the garage.

11 Q. Okay. Were your cars in the garage?

12 A. One was taken by my wife.

13 Q. So she was not home?

14 A. She was not home. The one which is, as you had
15 explained earlier, the one which was on the left side.

16 Q. Okay.

17 A. The right side was my BMW parked.

18 Q. Okay. So you had to go around your BMW vehicle?

19 A. Yes.

20 Q. And you grabbed the handle bar?

21 A. On the left side.

22 Q. On the left and the clamp behind the seat?

23 A. Right.

24 Q. And tried to drag it out?

25 A. Exactly.

1 Q. while it was still running -- was it still
2 running?

3 A. No.

4 Q. So you tried to drag it out. And why could you
5 not drag it out?

6 A. Because that thing -- I mean, I had to kind of
7 stay away from the flames and that motorcycle is heavy.
8 And, again, as I said, there was oil on the garage floor.

9 Q. From the motorcycle?

10 A. From the motorcycle.

11 Q. All right.

12 A. And it just -- since it was not balanced very
13 well, it just kind of slipped.

14 Q. When you say not balanced?

15 A. I mean --

16 Q. From you trying to move it?

17 A. Yes. The motorcycle was not standing
18 perpendicular. I mean, it was not straight.

19 Q. When you saw it, where were the flames on the
20 motorcycle?

21 A. It was coming from the -- I believe to the best
22 of my recollection from the engine side.

23 Q. When you say the engine side, do you mean like
24 one side or the other or is that a location from front to
25 back?

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1 A. I am not -- I cannot recall exactly. That was
2 not my concern. But there were flames coming off the
3 engine.

4 Q. Okay. And how high were they?

5 A. They were almost at the level of maybe even --
6 to the level of the gas tank.

7 Q. Can you describe what color they were or
8 anything like that? Was it smoky? You know, some fires
9 burn with not much smoke. Some fires burn with lots of
10 smoke.

11 A. I'm just guessing.

12 Q. I don't want you to guess. I want your
13 recollection. If you don't have one, that's fine.

14 A. Yeah, I don't.

15 Q. How about the tires, were they on fire?

16 A. The tires were not. They were not.

17 Q. How about the seat?

18 A. Seat was not on fire.

19 Q. How about any of the trim or the housing?

20 A. I don't recall that any of that was on fire.

21 Q. Okay. So you tried to get it out. You were
22 unsuccessful.

23 How far do you think you moved it?

24 A. Almost half the distance of my -- where my BMW
25 was parked. So I would say there was another maybe 15 --

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1 10, 15 feet to go before I could have taken it out.

2 Q. How far do you think you moved it? 5 feet,
3 10 feet?

4 A. Tough to say. 6, 7 feet.

5 Q. And then so what happened? It fell to the
6 ground. And then what happened?

7 A. It fell to the ground and then it fell very
8 close to my BMW.

9 Q. Okay.

10 A. So the next thing I did was rush in the house,
11 grab ahold of the BMW keys -- the car keys and I took the
12 BMW out. The car.

13 Q. Was it damaged at all?

14 A. No, it wasn't.

15 Q. Okay. And then what did you do?

16 A. And then I saw the neighbor, just talked to him
17 and I was gonna -- my next thought was to call 911. But
18 he told me that he already has called 911.

19 Q. What was his name?

20 A. His name was Trevor -- I always forget his last
21 name, Catanese, C-A-T-A-N-E-S-E.

22 Q. Does he still live there?

23 A. Yes, he does.

24 Q. At the point when you got the vehicle out of
25 your car, out of the garage, did you leave it in the

1 driveway? Did you take it to the street?

2 A. I tried to park it as far away from the garage
3 as possible. Whether I took it on the street, I do not
4 recall.

5 Q. Did you -- when you came back and your next view
6 of the motorcycle and the fire, where was it then?

7 A. Right in front of the garage. I mean -- when I
8 came back after parking the car, I came back to where the
9 motorcycle was burning.

10 Q. It was laying in the middle of the garage floor
11 essentially?

12 A. Yes.

13 Q. Were you able to come into the garage?

14 A. No, I didn't come in the garage.

15 Q. You stayed outside?

16 A. I stayed outside.

17 Q. Okay. How big was the fire at that point?

18 A. It had pretty much engulfed the motorcycle.

19 Q. All right. Had any of the structure been
20 burned?

21 A. Not at that time. I do not -- to best of my
22 recollection -- by the time I got back, the structure was
23 not on fire.

24 Q. Okay. Did you make any effort to put the
25 motorcycle out, the fire?

1 A. The fire out or the motorcycle out?

2 Q. Did you make anymore effort to move the
3 motorcycle out?

4 A. No, I did not.

5 Q. Too much fire?

6 A. Too much fire.

7 Q. Okay. Did you make any effort to extinguish the
8 fire on the motorcycle?

9 A. Yes. You know, that was as far as trying to put
10 it out -- I think I missed one step.

11 I had gone to Turkey. I had bought a carpet. I
12 couldn't really figure out as to how to figure out -- I
13 thought if I threw the darn carpet on the motorcycle, it
14 might extinguish it. So I tried to pull the carpet out to
15 extinguish the fire and I was unable to even pull the
16 carpet out and -- you know, I realized that this exercise
17 was futile.

18 Q. Where was the carpet?

19 A. The carpet --

20 Q. You're saying you couldn't pull it out. Pull it
21 out from where? That's what I don't understand.

22 A. The carpet was in the family room.

23 Q. So you went back into the house?

24 A. As soon as I saw this thing burning, the first
25 thing I did was run over -- I believe that was the

1 sequences.

2 Q. So the first thing you did was try to get the
3 motorcycle out?

4 A. Well, not -- yeah.

5 Q. And then the second thing you did was to go try
6 the carpet or was that after -- after you moved your car?

7 A. To be honest, I'm not really sure of the
8 sequence. But might have been pulling the carpet out,
9 trying to extinguish might have been the first step and
10 then taking the motorcycle out was the second.

11 I think that was more like it.

12 Q. Okay. And then moving the car was the third?

13 A. Moving the car was the third.

14 Q. But you never got the carpet out of the family
15 room?

16 A. No. I just could not.

17 Q. Okay. Was there furniture on it?

18 A. Furniture on it. And I just was trying to drag
19 everything and I just could not.

20 Q. Okay. So when you came back and the motorcycle
21 was in the center of the garage on its side on fire, your
22 car was out of the way, what did you do next?

23 A. By that time it was -- the fire was, was
24 quite -- the whole motorcycle was on fire. And then --
25 there was a lot of smoke. And then just waited for the --

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1 I mean, it was not very long before the fire truck arrived
2 and, you know, they took over.

3 Q. Did you have like a hose anywhere or like a
4 bucket of water or anything that you tried?

5 A. No, I did not.

6 Q. Did you have a fire extinguisher in your house?

7 A. No, I do not.

8 Q. Or in your car or anything?

9 A. No, I do not.

10 Q. And did the structure of your house eventually
11 become damaged by fire? Or was it mostly just smoke that
12 got through your house?

13 A. I mean, the garage was definitely burnt. The
14 adjoining laundry room was pretty burnt. And then the
15 most of the damage was, I think, soot. A lot of soot and
16 smoke.

17 Q. Okay. When you ran from -- you heard the alarm,
18 right?

19 A. Yes.

20 Q. Rewind a little bit.

21 A. Right.

22 Q. You heard the alarm. You thought to yourself,
23 oh, the motorcycle's running?

24 A. Right.

25 Q. Okay. According to what was sent to me in terms

1 of answers to discovery, that was about 30 minutes, I
2 think. Does that sound right? From the time you started
3 the motorcycle until the time you heard the alarm?

4 A. And that, again, is a very -- I mean, it's just
5 a guess.

6 Q. Could have been more?

7 A. Could have been more.

8 Q. But whatever it was, it was long enough that
9 there was enough fire and enough smoke that it got through
10 the laundry room into the house to set off the alarm?

11 A. I'm not sure of your question.

12 Q. However many minutes -- I'll start over.
13 However many minutes it took, you had started the
14 motorcycle?

15 A. Okay.

16 Q. And it burned long enough to create smoke that
17 went from your two-car garage through or under the door.
18 Did you close the door between the --

19 A. That I do not remember.

20 Q. When you went in the house, did you close the
21 door from the garage to the laundry room?

22 A. I do not remember.

23 Q. Do you normally close the door when you do that?

24 A. I normally do, yes.

25 Q. It got into your house through the laundry room

1 and into a smoke detector in the interior of the house,
2 correct?

3 A. Uh-huh.

4 Q. Okay. When you went back out and thought, oh my
5 goodness, I left the motorcycle running, did you leave the
6 door from the garage to the laundry room open?

7 A. I do not recall. Maybe I did.

8 Q. You probably were pretty excited and you might
9 have?

10 A. I'm not sure.

11 Q. What else was in the area of the motorcycle
12 other than your car?

13 was there anything between the motorcycle and
14 the far wall?

15 A. There was a lawn mower, maybe not right next to
16 it. But alongside the wall there would be the lawn mower.
17 I had a pretty big snowblower.

18 what else?

19 Q. What type of snowblower did you have?

20 A. The usual handheld.

21 Q. Was it the kind -- is it the kind you mix the
22 gas and the oil or the kind you had separate gas and oil?

23 A. No. This is the one that just only uses
24 gasoline. No oil.

25 Q. Gas separate or mixed?

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1 A. No. Just separate. You just put gasoline in.

2 Q. Okay. I want -- this is from -- I just want to
3 make a few notations on some things here.

4 Let's -- I'm gonna show you what's been marked
5 as Yazdani Bates Number 81. It's page 57. And this came
6 from the damage documentation from your insurance company.
7 Allstate?

8 MR. HUGHES: Correct.

9 BY MR. HEINOLD:

10 Q. Okay. We'll mark that in a minute. It's gonna
11 be marked as Exhibit 2.

12 This is your garage, right?

13 A. Uh-huh.

14 Q. Now, I may have just got a mental image
15 different.

16 A. Okay.

17 Q. Or you may have said it differently.

18 But the garage doors are here at the bottom of
19 the --

20 A. No. The garage doors are here.

21 Q. Oh, on the side. Okay.

22 A. The driveway comes like this.

23 Q. These are windows here?

24 A. These are windows.

25 Q. Is this the front of the house?

1 A. That's the front of the house.

2 Q. Can you just take my pen and write front.

3 I'm gonna write doors here.

4 Okay?

5 A. Yep.

6 Q. And this is self-explanatory. This is the
7 laundry room. And I'm gonna circle the laundry room door,
8 correct?

9 A. Yep. Yep.

10 Q. And then there is --

11 A. A door right there.

12 Q. Then there's another door that goes into the
13 hallway?

14 A. Hallway, correct.

15 Q. Okay. And I'm gonna circle that as well. Those
16 are the two doors -- I think they're self-explanatory.

17 Can you show me where the fire smoke detector
18 was?

19 A. The smoke detector was -- as soon as you enter,
20 right up on the ceiling.

21 Q. Was it within the circle I've drawn here?

22 A. Well, within the circle, I'm not sure, but --
23 but this thing would be right here.

24 Q. Okay. You made an X on one of the circles and
25 I'm gonna write over here smoke detector.

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1 A. Uh-huh.

2 Q. I'm gonna draw a line to it. All right. And
3 then you were in the family room you said?

4 A. Uh-huh.

5 (Deposition Yazdani Exhibit No. 2 marked.)

6 BY MR. HEINOLD:

7 Q. This has living room, kitchen.

8 Is there a family room --

9 A. Well, actually the word living room should be
10 family room is what I call it.

11 Q. Okay. Tell me where you were --

12 A. I was right here.

13 Q. -- when you heard the smoke alarm?

14 A. I would maybe put an A. There's a sofa here.

15 Q. Okay. You were A in the family room?

16 A. Right.

17 Q. And do you know which way you were facing?

18 A. I was facing towards the -- now --

19 Q. Were you sitting down?

20 A. I was sitting down. And this is --

21 Q. On a sofa along this wall?

22 A. Yeah.

23 Q. So you would have been facing the back of the
24 house?

25 A. Right. And this is to the best of my knowledge.

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1 Q. I understand.

2 A. I may not have been doing that.

3 Q. I understand.

4 Now, can you -- I can point to it. I want to
5 make sure it's accurate. But if you want to write -- if
6 your hands are cold, I would just like you to put like MC.
7 No. Let's use BMW. Put BMW where the motorcycle was.

8 A. After it caught fire?

9 Q. When you started it up.

10 A. Okay. Sure.

11 Q. And just put like BMW and draw a box around it
12 or something.

13 A. BMW this block here.

14 Q. Excellent.

15 And so your wife's car was on the left and that
16 was not there.

17 Your car was on the right by the laundry room?

18 A. Correct.

19 Q. Now, you were saying there was a lawn mower and
20 snowblower?

21 A. Right.

22 Q. Where were they?

23 A. They were alongside this wall right here.

24 Q. Along here?

25 A. Yep.

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1 Q. So if I write LM/SB and put it in a box, will
2 that be fair?

3 A. That would be fair.

4 Q. That would be in front of your wife, right?

5 A. Right.

6 Q. Your wife's car, I should say.

7 A. Uh-huh.

8 Q. Is that fair?

9 A. Yep.

10 Q. All right. And then you dragged the
11 motorcycle -- I don't think we have to mark it unless it's
12 significant -- somewhere toward the door?

13 A. Yes.

14 Q. And was that towards your wife's door or yours?

15 A. Toward my wife's.

16 Q. Is that the one that was opened?

17 A. Right.

18 Q. Right?

19 A. Uh-huh.

20 Q. Okay. Other than the garage door, were there
21 any windows in the garage opened?

22 A. No.

23 Q. When you started the motorcycle --

24 A. Yes, sir.

25 Q. -- were you concerned about carbon monoxide?

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1 A. No.

2 Q. Why not?

3 A. Because the door was open.

4 Q. Okay. Had you ever done something similar for
5 your lawn mower and snowblower and/or snowblower?

6 MR. HUGHES: Just object. You mean starting
7 them up in the garage?

8 BY MR. HEINOLD:

9 Q. Start it up, run it?

10 A. No.

11 Q. Why?

12 A. Because I don't need to warm them up. Whenever
13 I wanted to use them, I drag them outside.

14 Q. I guess you don't winterize a snowblower, but do
15 you summarize your snowblower?

16 A. I --

17 MR. HUGHES: He is asking you personally. Do
18 you personally?

19 THE WITNESS: No, I do not winterize my --

20 BY MR. HEINOLD:

21 Q. Your lawn mower on summarize your snowblower?

22 A. Yes.

23 Q. Did you start them up to warm them up like you
24 did your motorcycle?

25 A. No, I did not.

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1 Q. Do you know whether you have an auto alarm to
2 the fire department, like if your smoke detectors go off?

3 A. No.

4 Q. You don't know or you don't?

5 A. No, I do not have.

6 Q. Someone has to call 911?

7 A. Yes.

8 Q. And your neighbor did?

9 A. Yes.

10 Q. And the fire department arrived pretty quickly?

11 A. Yes.

12 Q. How many different departments were there?

13 A. I am not aware of how many departments.

14 Q. How many trucks?

15 A. I don't even recall that.

16 Q. Did you, like, watch them try to extinguish the
17 flames?

18 A. Yes, I did.

19 Q. Were there any particular problems they were
20 having?

21 A. Well, I mean, they started the process. And
22 then I was quite worried about my wife, because it was
23 about time for her to come.

24 So I walked over to the entrance of my
25 development and waited for her, because they were not

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1 allowing any cars to come to that particular street. And
2 I knew that she would be quite worried.

3 So I walked over there, got into the car with
4 her and drove. So what the process -- the whole
5 process -- and then I was also worried about a bird that I
6 have that I wanted to get that out, so I -- that was
7 before I walked to get my wife. I walked around -- you
8 know, after the fire people were there, I walked around,
9 broke the door which is towards the back side, and there's
10 a deck, broke the door from the deck side. Went inside,
11 which was full of smoke, and was able to get my bird out
12 and --

13 Q. Were the firefighters there already?

14 A. Firefighters were there. As a matter of fact, I
15 got accosted for that, for entering into the house, yes.

16 Q. I was gonna say, it probably wasn't a popular
17 move with them.

18 A. Well, I mean, my bird was quite -- yeah, you're
19 right.

20 Q. Is your bird okay?

21 A. My bird surprisingly is okay.

22 Q. How much smoke -- did it go through your entire
23 house?

24 A. How much?

25 Q. No, did it?

1 Let me start the question, because it was a bad
2 question.

3 Did smoke go through your entire house?

4 A. Yes, it did.

5 Q. And everything needed to be cleaned?

6 A. Yes.

7 Q. From a structural standpoint, it was mostly the
8 garage and the laundry room?

9 A. I believe so. Not sure. But, yes.

10 Q. All right. How long had you lived in that
11 house?

12 A. Bought the house in 2000, 2001.

13 Q. Okay. Do you remember how much you paid for it?

14 A. 270. 270,000.

15 Q. 270,000?

16 A. Uh-huh.

17 Q. Did you have a mortgage?

18 A. No. I paid it off.

19 Q. You paid off your mortgage.

20 You did when you bought it?

21 A. I mean, it was not a cash buy, but in a period
22 of time I paid it off.

23 Q. Did you -- do you have a mortgage now?

24 A. No, I do not. It's been paid off for quite
25 sometime now.

1 Q. Do you have, like, a home equity line of credit?

2 A. No, I do not.

3 Q. Do you know how much your house is worth now?

4 A. Yes, I do.

5 Q. And how much?

6 A. It is about 400,000.

7 Q. And why do you say that? Is that your assessed
8 value for taxes?

9 A. Not that. I think they are taking more taxes
10 than they should.

11 Q. That's a universal complaint.

12 A. But there's a site visit where you can go -- and
13 I'm forgetting the name of the site -- where you can go
14 and look at house prices.

15 Q. Okay. Is that like Zillow?

16 A. Zillow, yes. You're right.

17 Q. Is that the one?

18 A. Yes.

19 Q. And so you've looked there and you think that's
20 what --

21 A. I think that is it.

22 Q. Why did you look?

23 A. It's been awhile. I don't remember --

24 Q. Do you remember what your municipality has
25 assessed your house value at?

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1 A. That is something that I think that they have
2 assessed it higher than what Zillow says.

3 Q. Okay.

4 A. And as a matter of fact, I had an issue with
5 that.

6 Q. How long were you out of your house as a result
7 of the fire?

8 A. I think it was towards the end of 2013 that I
9 moved back.

10 Q. So like ten months, eight months?

11 A. Yeah. About that much.

12 Q. Where did you live?

13 A. Well, we rented an apartment.

14 Q. Why did it take so long?

15 A. I have no idea. I mean, they were in the
16 process of, you know, building, reconstructing the whole
17 house.

18 Q. What is your understanding of what they needed
19 to do? Did they have to tear things down or just clean
20 them?

21 A. No. Tear the whole thing down. I was told that
22 everything needs to be torn down, because smoke had got
23 into everything.

24 Q. They had to take the drywall off the walls and
25 take the trim off?

1 A. Yeah. The only thing was just the stud
2 standing. That was it.

3 Q. So it wasn't just a matter of cleaning it?

4 A. No. It was just totally torn from the inside.

5 Q. I'll use the term gutted?

6 A. Gutted is correct.

7 Q. That's your understanding of it?

8 A. Yes, sir.

9 Q. Was it reconstructed the same way as it had
10 been?

11 A. Exactly.

12 Q. Same materials. Did you upgrade anything?

13 A. Yes.

14 Q. What did you upgrade? Did you get like a new
15 counter and all that stuff?

16 A. No. As a matter of fact, I had just gotten new
17 counter and new appliances, everything before the fire.

18 The only little bit of upgrade that I did was
19 that my living room and the dining room were not hardwood,
20 so I just made that into hardwood. That's about it, the
21 main difference. Otherwise there might have been some
22 small --

23 MR. HEINOLD: Off the record for a second.

24 (Discussion held off the record.)

25

1 BY MR. HEINOLD:

2 Q. So the upgrade was hardwood floors in the living
3 room and the dining room?

4 A. Dining room, yep.

5 Q. And how about the contents? Were they cleaned?
6 Were they --

7 A. They were all thrown out.

8 Q. Everything was thrown out?

9 A. Everything was thrown out.

10 Q. Did you make a list of the contents or did your
11 wife do that?

12 A. Well, they -- the insurance company came and did
13 themselves made the list.

14 Q. They went through the closets, they went through
15 the rooms, they took pictures?

16 A. All the appliances.

17 Q. Sofa and TVs?

18 A. Exactly. Sofa, TV.

19 Q. Were you with them when they did that?

20 A. Bedding. No. Not really.

21 Q. I've tried to get a true understanding of what
22 happened that day.

23 Is there anything other than what you've told me
24 in response to my questions that you remember about the
25 fire and the activities surrounding the fire?

1 A. No, I did not.

2 Q. Okay. Let me wrap up here.

3 I understand your testimony that you didn't know
4 or care whether this was an air-cooled engine or some
5 other type of cooling?

6 A. No that I didn't --

7 MR. HUGHES: Objection.

8 THE WITNESS: Not that I didn't care, but it was
9 something that I just --

10 BY MR. HEINOLD:

11 Q. Did you care?

12 A. Now I do.

13 Q. Okay. Did you then?

14 A. No.

15 Q. Okay.

16 A. To me that was not something that was what I --
17 or desired, well, yeah, I want an air-cooled or
18 water-cooled or air-cooled.

19 Q. Did you think it was important to understand the
20 characteristics of your motorcycle?

21 MR. HUGHES: Objection.

22 THE WITNESS: Now I do.

23 BY MR. HEINOLD:

24 Q. Did you then?

25 A. No, I do not.

1 Q. There's certain ones that you certainly would
2 want to understand. I think you talked about that
3 earlier.

4 A. Yes. The ones that I wanted to know about, yes,
5 I did know.

6 Q. I'm not gonna go back over the manual. I know
7 you said you read the manual. You may or may not have
8 read this part that we talked about, et cetera.

9 A. Yes.

10 Q. We don't have to -- but if you had followed the
11 warnings in the manual, am I right that you would not have
12 started your motorcycle and left it unattended?

13 A. Absolutely.

14 Q. Okay. And so if you had followed those
15 warnings, this fire wouldn't have occurred, correct?

16 MR. HUGHES: Objection.

17 THE WITNESS: Correct.

18 BY MR. HEINOLD:

19 Q. And if you had followed the warnings in the
20 manual -- which you agree are pretty clear, correct?

21 MR. HUGHES: Objection.

22 THE WITNESS: Yes, sir, they are.

23 BY MR. HEINOLD:

24 Q. Your house wouldn't have been damaged?

25 A. True.

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1 Q. Let me take one quick look through my -- oh,
2 let's go off the record.

3 (Discussion held off the record.)

4 BY MR. HEINOLD:

5 Q. Okay. Back on the record.

6 Mr. Yazdani, you brought with you some
7 information regarding this motorcycle in terms of purchase
8 and service that you found recently.

9 When we had my client, I asked your attorney to
10 provide such things. He said you couldn't find any. And
11 for purposes of today, you have found some.

12 We're not gonna mark them as official exhibits.
13 Your attorney wants to process them and produce them. But
14 we are gonna just talk about it a little bit.

15 A. Okay.

16 Q. This first document appears to be two -- and it
17 appears to be old time carbon. It says Extended Service
18 Contract Motorcycle, effective date is 12/27/03 to
19 12/27/10. And the transfer holder is listed as Lula Marie
20 Capuchino, C-A-P-U-C-H-I-N-O, from Fulsom, California, and
21 the dealer is Santa Rosa BMW.

22 Do you know what that is?

23 A. I believe -- no, I don't.

24 Q. It looks to me -- and you don't have to agree
25 with this -- looks to me like when you bought the

1 motorcycle used, the seller to you had these documents and
2 provided them?

3 A. Yes.

4 Q. Is that what --

5 A. The seller provided all the documents.

6 Q. The seller provided everything here?

7 A. Except my maintenance records.

8 Q. Except your maintenance.

9 Okay. All right. The next one is a repair
10 order.

11 MR. HUGHES: Off the record.

12 (Discussion held off the record.)

13 BY MR. HUGHES:

14 Q. When I say next one, I don't necessarily mean by
15 date. I mean by document.

16 There's a group of five pages of a computer
17 printout from Greater Boston Motor Sports in Arlington,
18 Massachusetts, that looks like 2008, 2011, April 2011,
19 2009.

20 What do you understand these to be, sir?

21 A. I understand that these are the maintenance
22 records of the previous owner.

23 Q. Okay. And I just want to take a quick glance at
24 that.

25 And then the next document appears to be the

1 extended service. Again, it has a business card from
2 Greater Boston Motor Sports with Marco Pomponi,
3 P-O-M-P-O-N-I, assistant service manager.

4 It looks to be similar to the first one and it
5 looks as if it was to me a transfer from the prior owner
6 to a Benjamin Farrell in San Francisco.

7 Is that your understanding of that document?

8 A. Yes, I'm not sure -- that is what it says, yes.

9 Q. The seller in Boston gave you that?

10 A. Yes. He handed me all of this bunch of papers.

11 Q. And another one that he handed you was a service
12 invoice in December of 2007 for Mr. Farrell at BMW of San
13 Francisco Motorcycle invoice, right?

14 A. Okay.

15 Q. Another one is KC Engineering for Mr. Farrell.
16 Looks like another repair invoice. Looks like a tire.

17 And another BMW invoice that looks like oil and
18 filter change, some repair kit for something to do with
19 oil and a safety bar from BMW from San Francisco in 2008,
20 correct?

21 A. Okay.

22 Q. There's an envelope here, which is empty,
23 Western Service Contract. Probably those were one of
24 those others.

25 Now, this 13 pages of a repair order 4683 from

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1 velocity cycles where you're listed as the customer. And
2 it says requested 24,000-mile state inspection and the
3 battery failed, correct?

4 A. Correct.

5 Q. How many miles did you have on this, do you
6 know?

7 A. I think pretty close to 24,000. Not really
8 much.

9 Q. And how many miles do you think there was at the
10 time of the incident, the fire?

11 A. Couldn't have been very much different than -- I
12 would say 27, 28.

13 Q. So you only put a couple thousand on it?

14 A. Yes.

15 Q. This says at least in April of 2011 -- which
16 would be when you got it back?

17 A. Uh-huh.

18 Q. Right. You took it to velocity cycles?

19 A. Uh-huh.

20 Q. 24,894?

21 A. Okay.

22 Q. All right. That's what that means.

23 Then you have a BMW Motorrad Maintenance
24 schedule for the R1150R in your name.

25 where did you get -- tell me about that

1 document.

2 A. This is the document that when they asked me
3 to --

4 Q. They?

5 A. They meaning the Velocity Cycles.

6 Q. Okay.

7 A. I wanted to make sure that they, meaning
8 Velocity Cycles, did all the required maintenance. And I
9 asked them to produce the required maintenance and this is
10 the paper, which indicates that this is what is required.

11 Q. So that BMW Motorrad Maintenance schedule came
12 from Velocity?

13 A. Velocity Cycles.

14 Q. What do the marks on there mean?

15 A. Marks the ones that, I believe -- I believe
16 indicates that --

17 Q. That's what they did?

18 A. I don't know what they did or if I put the marks
19 there or --

20 Q. Okay.

21 A. They did the whole thing. Whatever was supposed
22 to. But I'm not really sure what the marks are.

23 Q. And then the last is the Bob's BMW service order
24 at 26,644 miles in June 2011 from Jespar, Maryland.
25 That's the one you told me about?

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1 A. Correct.

2 Q. And on your complaint was customer reports the
3 bike hesitates around 5,000 RPMs, won't go over 90 miles
4 per hour, idles roughly and there's a ticking from the
5 RH --

6 Is that the right-hand cylinder?

7 A. I guess.

8 Q. -- RH cylinder. So the ignition coil wasn't
9 working. And did some work to this there, right?

10 A. Yes.

11 Q. And that's it, correct?

12 A. Yes.

13 Q. That's it for the documentation?

14 A. Yes.

15 MR. HEINOLD: I don't have any other questions
16 for you.

17 Thank you. Appreciate your time.

18 THE WITNESS: Thank you.

19 MR. HUGHES: I just have one quick question,
20 just a clarification.

21 EXAMINATION

22 BY MR. HUGHES:

23 Q. Counsel had asked you from the time that you
24 started the motorcycle to when you heard the smoke alarms,
25 you had said 30 minutes.

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1 And he indicated that that was what was written
2 in the Plaintiff's responses to interrogatories. And you
3 had said 30 minutes, you're guessing. I know that English
4 is a second language.

5 Did you mean estimating?

6 A. There is no base for me to estimate. I mean,
7 this is just a -- what I think. Just a guess of 30
8 minutes. There's nothing for me to base that 30 minutes
9 on.

10 Q. As you sit here today, was it about 30 minutes?
11 Is that your recollection?

12 A. That is my best recollection.

13 MR. HEINOLD: Okay.

14 THE WITNESS: Could be 35. Could be 40.

15 MR. HUGHES: Understand.

16 MR. HEINOLD: Okay.

17 (Deposition concluded at 1:27 p.m.)
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